UNITED
NATIONS

HRI

International
Human Rights
Instruments

Distr.
GENERAL

HRI/CORE/1/Add.3
22 June 1992

ENGLISH
Original: SPANISH

CORE DOCUMENT FORMING PART OF THE REPORTS OF STATES PARTIES

VENEZUELA*

[19 December 1991]

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# I. PRINCIPAL DEMOGRAPHIC, ECONOMIC AND SOCIAL INDICATORS

## A. Population

1. In 1989 (the official figures of the 1990 census were not yet available when this report was being prepared), Venezuela's total population was an estimated 19.2 million inhabitants, i.e. a male population of 9.7 million and a female population of 9.5 million, virtually the same number, but with males slightly predominant. The death rate is of the order of 4.3 per thousand inhabitants, and child mortality stands at 22.1. There is a high life expectancy, i.e. 66.9 years for men and 73.1 years for women. The fertility rate is 3.3 per cent.

2. One of the principal features of the population is the large number of young people. The pattern reveals that persons under 30 years of age make up 66.7 per cent, including 38.5 per cent (7.4 million) who are children. Conversely, people over 65 account for 3.6 per cent of the total population.

3. The population density is 21.1 persons per sq.km. and the rate of growth is 23.4 per cent. Again, there is an imbalance between the density of the urban and rural populations. The inhabitants of the urban areas represent 83.6 per cent of the total, while the remaining 16.4 per cent live in the rural areas. This uneven geographical concentration is tied in with industrial development and the population centres close to these areas, which have been experiencing a process of urbanization.

4. International migration has also played a part in the dynamism of the Venezuelan population. It has had an impact because of the national and international economic situation. Large numbers of migrants entered the country from 1970 to 1980, particularly from Latin America and more especially from neighbouring countries. According to the 1981 census, immigration totalled 1,074,619 people. As pointed out, 62.1 per cent were Latin Americans. Moreover, 68 per cent of the immigrant population live in the fastest growing centres, such as the Federal District, State of Miranda, Zulia, Aragua, Cardabobo and Táchira. Immigrants account for 8 to 10 per cent of the population of Venezuela.

## B. Socio-economic indicators

5. The main feature of Venezuela is that it is an oil-exporting country, something which, for an almost unbroken period of more than 50 years up to 1980, provided an increasing income that enabled it to finance its development and show high surpluses on its external and revenue accounts. In the 1980s, Venezuela's economy stagnated, with a per capita fall of 25 per cent in the Gross Territorial Product by 1985. By 1986, the fall in oil prices on international markets was such that the balance-of-payments deficit stood at $4,000 million.

6. In 1987, the economy suffered from a 42 per cent price rise caused by the sharp devaluation of the currency, due to the substantial decline in oil revenues. Income distribution reflected great distortions between the various sectors of the population. These economic trends have had an adverse effect on the living conditions of the population in general.

7. After the drastic adjustment in 1989, the macroeconomic results in 1990 were positive. The Gross Domestic Product (GDP) rose by 4.4 per cent, well above the natural growth in the population, thus bringing back the historical trend of the Venezuelan economy towards sustained expansion. Some significant economic indicators are set out in the tables below.

Some macroeconomic economic indicators for the last biennium

| | 1989 | 1990 |
|---|---|---|
| Gross Domestic Product (1984 = 100) | | |
| % variation compared with previous year | | |
| Total | -8.3 | +4.4 |
| Oil activity | +1.2 | +8.5 |
| Non-oil activity | -9.4 | +3.8 |
| Balance of payments | | |
| Balance on current account | | |
| US$ | 2 497 | 7 387 |

Source: Central Bank of Venezuela.

8. This conspicuous economic recovery, although found in all sectors, stemmed basically from reactivated non-oil activities, which shifted from a negative rate in 1989 (-9.4 per cent) to +3.8 per cent by the end of 1990: proof that the nation's production system was fully incorporated in the reconstruction efforts. Oil activity, for its part, also expanded a great deal, rising from a growth rate of 1.2 per cent in 1989 to 8.5 per cent in 1990. This growth was reflected in the balance of payments by an increase in the current account balance from US$ 2,497 million in 1989 to US$ 7,387 million in 1990.

9. The most important thing is that this growth took place in a situation of controlled inflation. The following table shows the rates of inflation for 1989 and 1990.

Percentage variations in the consumer price index

(Metropolitan Area of Caracas)

| Period | General index | Food, beverages and tobacco | Clothing and footwear | Household expenditures | Miscellaneous expenditures |
|---|---|---|---|---|---|
| 1989 (+) | 81.0 | 102.9 | 58.1 | 63.1 | 86.1 |
| January 1990 | 2.4 | 3.5 | -0.2 | 2.0 | 2.1 |
| February 1990 | 1.9 | 2.0 | 0.3 | 1.8 | 2.6 |
| March 1990 | 1.8 | 1.8 | 1.1 | 1.9 | 1.9 |
| April 1990 | 2.6 | 2.5 | 2.2 | 2.8 | 2.7 |
| May 1990 | 2.5 | 4.7 | 1.5 | 1.6 | 1.3 |
| June 1990 | 2.8 | 3.4 | 2.8 | 3.0 | 1.7 |
| July 1990 | 3.9 | 2.8 | 3.0 | 3.3 | 6.5 |
| August 1990 | 3.2 | 3.4 | 3.2 | 2.8 | 3.2 |
| September 1990 | 1.5 | 0.2 | 0.9 | 2.8 | 2.2 |
| October 1990 | 2.6 | 2.0 | 2.0 | 3.3 | 3.1 |
| November 1990 | 2.9 | 3.3 | 3.2 | 2.0 | 3.2 |
| December 1990 (*) | 3.5 | 4.9 | 3.3 | 2.1 | 2.9 |
| 1990 (+) | 36.5 | 40.0 | 25.7 | 33.7 | 38.9 |

(+) cumulative

(*) estimates

Source: Central Bank of Venezuela.

In 1989, the increase in the consumer price index (inflation) was 81 per cent, whereas, in 1990, the same indicator showed an increase of 36.5 per cent over the whole year.

10. From a comparison of these figures for inflation with the figures in other countries, where the annual indexes for Venezuela have been reached in no more than a month and even no more than a day, it has to be recognized that the policy to control inflation has been effective. Control of inflation was reflected more specifically by the fact that a stable exchange rate, fluctuating by less than 20 per cent, was maintained throughout 1990, in contrast to previous years, while interest rates dropped.

11. It is important to point out that, up to 1983, fixed parity of the Venezuelan currency with the United States dollar was established at an exchange rate of 4.3 bolivares to the dollar. From then on, the country suffered severe devaluation and, if a rigid anti-inflationary policy had not been followed in the past biennium, the exchange rate could have risen to 60 bolivares to the dollar and, according to some people, might even have reached more than 100 bólivars to the dollar. By the end of 1990, the exchange rate stood at around 50 bólivars to the dollar, having started in January 1990 at a rate of over 40 bólivars to the dollar, with devaluation at only 17.5 per cent.

12. The growth in the economy, the control over inflation and the balance-of-payments surplus led to a very significant increase in Venezuela's international reserves. By the end of 1990, Venezuela had US$ 11,500 million under this heading, in other words, US$ 4,089 million more than in 1989. Out of the total at the end of 1990, $7,090 million are operational reserves.

Principal macroeconomic aggregates

| | 1989 | 1990 |
|---|---|---|
| Inflation (percentage variation in the Consumer Price Index) | 81.0 | 36.5 |
| Rate of unemployment (percentage variation) At end of second half of 1980 and third quarter of 1990 | 9.6 | 10.0 |
| Financial management, public sector (as percentage of GDP) | -1.1 | 0.8 |
| Monetary liquidity (percentage variation) For 1990, only up to end of November | 38.6 | 42.7 |
| Total investments of banking system (percentage variation) Up to October 1989 and 1990 | 8.8 | 7.7 |
| Foreign exchange movement in Central Bank (millions of US$) | 740 | 4 089 |
| Balance-of-payments surplus (millions of US$) | -1 055 | 3 757 |
| Current account | 2 497 | 7 387 |
| Non-monetary capital account | -5 512 | 3 671 |
| International reserves (millions of US$) | 7 411 | 11 500 |
| Operational | 3 184 | 7 090 |
| Non-operational | 4 227 | 4 410 |

Source: Central Bank of Venezuela.

In addition, other macroeconomic indicators show that success has been achieved in containing the trend towards increased unemployment, and although this serious problem did not become easier in 1990, a marked improvement is expected for 1991, with the start of a number of programmes that will create jobs.

13. The political and economic effects of the recovery have improved Venezuela's image in the international financial community, both for negotiating the external debt under better conditions and for attracting foreign capital and repatriating Venezuelan capital or reincorporating it in the national development process. In 1990, an External Public Debt Reduction and Rescheduling Agreement was concluded with international creditor banks. With this instrument - signed as a result of Venezuela's better negotiating position - debt servicing, i.e. interest, has been cut by almost $1,500 million a year. Previously, Venezuela had to allocate approximately $4,000 million under this heading, whereas now it will have to pay $2,000 million, equivalent to no more than the total value of Venezuelan exports. For 1991, the Government has set a GDP growth target of 8 per cent compared with 1990.

14. It will be seen from the employment indicators that, for the first half of 1991, the economically active population numbered 7,457,212 people; 89.7 per cent (6,687,097) had jobs, while the remaining 10.3 per cent (770,115) were unemployed (see annexed table 1). The activity rate was 59.8 per cent, meaning that, out of every 100 people over 15 living in Venezuela, 60 take part in economic activities. In 1981-1991 the number of women in the workforce fully explains the changes in the overall activity rate, since the male activity rate in that period did not change significantly. During the year between the first half of 1991 and the first half of 1990, the labour force increased by 415,173 persons. Out of this increase, 99.1 per cent were employed, the figures by sex being almost the same, with a slightly higher number of men.

15. In the past year, the overall unemployment rate fell from 10.9 to 10.3 per cent. In the male work force, the rate of unemployment changed from 11.6 to 10.4 per cent, which means 43,050 fewer unemployed persons. Conversely, the female unemployment rate changed from 9.3 to 10.2 per cent and the number of unemployed women rose by 46,662 persons. This is typical of a group which has recently increased its participation rate in the workforce, and this means a disadvantaged position vis-à-vis the other group. Out of the total number of jobs created between the first half of 1991 and the first half of 1990, the branches of economic activity with increased employment were trade, restaurants and hotels (28.5 per cent); community, social and personal services (23.0 per cent); manufacturing (22.2 per cent); construction (15.1 per cent); financial establishments (6.9 per cent); transport, storage and communications (2.8 per cent); and hydrocarbons and mining (1.4 per cent). Unemployment rates in economic activities are below the national average (10.3 per cent), except in construction and manufacturing.

16. The economically active population has some primary education. Similarly, 39.4 per cent have junior secondary education, including 36.4 per cent with senior secondary schooling. Persons with secondary and higher education accounted for a larger proportion of the labour force, whereas the number of illiterates and persons with primary education fell. There is a marked trend towards a higher educational standard in the country's human resources. The number of economically active persons with senior secondary and higher education rose throughout the period, whereas the number of illiterates, persons without formal schooling and persons with primary education was smaller (see annexed table 2).

17. Another point to be noted is that, of the total active workforce in the country, the formal sector of the economy accounted for 59.3 per cent (3,982,130) and the informal sector, for the remaining 40.5 per cent (2,704,966). The informal sector includes activities such as handicrafts, microenterprises, personal and production support services and the street trade. During the period under review, the population employed in the forma sector increased by 232,191 persons; this meant that the participation of th sector in total employment went from 59.2 to 59.5 per cent. The participati of the informal sector decreased from 40.8 to 40.5 per cent.

18. A relevant figure closely linked to the concept of a "secondary labour pool" is the number of women heads of household. The trend that may be discerned is that, for 1989, 812,125 households out of a total of 3.6 millio were headed by a single person of the female sex. In percentage terms, 1 ou of every 3 households in Venezuela has a woman head of household (22.21 per cent). The majority of these households are in the poorer socio-economic sectors characterized by a low level of education and low participation in the workforce (see attached table 3).

19. With regard to the level of education in Venezuela, the figures show a decline in the illiteracy rate of the population aged 15 and over from 9.9 per cent in 1988 to 9.3 per cent in 1989. For the period 1988-1989 there was a total of 5,115,295 pupils in attendance in school (2,287,442 mal and 2,324,313 females), with the majority of the school age population at th basic level of instruction from grades 1 to 6. The gap between men and wome in education is narrowing over time.

20. As to the participation of women in the Venezuelan educational system, there has been a substantial change in the level of training of the female population. The level of instruction of women has increased at all stages o education and there has been a sharp drop in the illiteracy rate, although t latter is still a matter of concern, particularly in rural areas. In terms numbers, the educational advancement of the new generation of women is more less equivalent to that of the levels of training of men. The presence of women is most noticeable in secondary and higher education. During the year under review, 52 per cent of the total number of graduates from the country' main schools and universities were females and 47 per cent were males, whose vocational training focused on technical studies.

21. Fuller and more democratic access to the formal educational system has given Venezuelan women greater equality and opportunities for social advancement that have led the Venezuelan Government to make changes in domestic legislation in order to guarantee women full participation in all aspects of national life. Important achievements in this regard include the adoption of the partial reform of the Civil Code, the amendment of the Labou (Organization) Act and the ongoing discussions on the Penal Code Act and the Social Security Act.

22. As far as political participation is concerned, women in Venezuela have always had a significant role to play. Women were granted the right to vote in 1946, but their active involvement in political battles was gradual.

In addition to the political efforts they are making with a view to fuller participation through activities carried out anonymously, disinterested contributions, involvement in support activities and backing for the work being done by the political leadership of our society, a large number of wome: with great organizational skills are in charge of the country's middle and senior management.

23. A matter of interest is the current number of women in the different branches of power: in the executive, there are 5 women in charge of the Ministries of Development, the Family and Women, the National Scientific and Technological Research Council and the Office of the President (about 10 per cent); in the legislature, there are 4 women senators and 19 women principal deputies elected in the last national elections in December 1988 (about 10 per cent); at the municipal level, 252 women councillors were elected in 1989 (12.8 per cent); and, in the judiciary, the majority of judges are women. Venezuelan women play a key role in the promotion and leadership of social organizations that promote fuller and more responsible participation by individuals in community life and relations with the Government, such as consumer groups, neighbourhood associations and environmental movements. Women also take part in trade union organizations and political groups.

## II. GENERAL POLITICAL STRUCTURE

### A. Historical summary

24. The process of Venezuela's formation as an independent State began with two interrelated events: the incidents of 19 April 1810, when colonial ties were broken off with the metropolitan country, Spain; and the Declaration of Independence by the 1811 Congress on 5 July 1811. The period between 19 April 1810 and late July 1812 was known as the First Republic, which ended when the republican territory was reconquered by Spanish forces and which was re-established in August 1813 by Simón Bolívar when he entered Caracas as the victor following the Admirable Campaign.

25. The period from August 1813 to December 1814 was known as the Second Republic, which ended with the events that went from the Oriente Emigration in mid-1814 until the battles of Urica and Maturín in December 1814. The Third Republic covered the period from 1817 to 1819, during which Bolívar and the other patriotic authorities referred officially to the Republic of Venezuela.

26. From 1819 until January 1830, Venezuela was part of Gran Colombia, which also consisted of what are now the republics of Colombia, Panama and Ecuador. Venezuela recovered its status as an independent nation when it separated from Gran Colombia, an event known as La Cosiata. General José Antonio Páez was named President by the Congress of Valencia and, in his capacity as President, General-in-Chief and private individual, he was the depositary of national power until 1848. He did not act despotically, however, but respected institutions, freedom of opinion and the separation of powers.

27. Elections were held in 1834 and, at the beginning of the following year, the presidency was assumed by José María Vargas, who was overthrown a few months later by a military uprising (Revolution of the Reforms) and

expelled from the country. Páez overthrew the reformists in 1836 and put Vargas back in power, but he resigned shortly thereafter. Following an interim period, Páez became President again (1839-1843) and was succeeded by General Carlos Soublette, who governed until early 1847.

28. During the period starting in 1830, a new central-federal Constitution was adopted (1830) and it remained in force for 27 years; several rebellions by regional political bosses were put down (1831, 1837); the precedence of the State over the Church was affirmed in constitutional matters (1830); freedom of worship (1833) and freedom to conclude contracts (1834) were established; and the Military Academy (1830), the National Library (1833) and the National Bank (1841) were set up. The Treaty of Peace with Spain was signed in 1845. A serious economic crisis which was the result of the fall in coffee prices on world markets led to the establishment of a strong opposition that joined forces in the Liberal Party founded in 1840.

29. During the 1846 elections, General José Tadeo Monagas was elected President, but, although he had Páez' backing, he turned against Páez and his conservative supporters, who formed the majority in the Congress. The Congress was stormed by a crowd on 24 January 1848 and Monagas' will prevailed with the support of the liberals. Then began a military regime with populist overtones that lasted slightly more than a decade. One of its characteristics was nepotism, since José Tadeo Monagas was succeeded as President (1851) by his brother, José Gregorio, who handed power back to José Tadeo (1855). Congress functioned as it should, but under the strict supervision of the executive. In March 1854, José Gregorio Monagas declared slavery abolished.

30. In 1857, José Tadeo Monagas sought to keep himself in power by amending the Constitution, but a movement of repudiation led by General Julián Castro ended the Monagas dynasty (March 1858). A national convention was held in Valencia for the purpose of reorganizing the Government, but the Constitution that was adopted did not satisfy the supporters of the federal system, who revolted on 20 February 1859. This was the beginning of the so-called "Federalist War" which isolated the country for over four years. Several presidents succeeded one another at the head of the central Government, until Páez proclaimed himself dictator (1861). The war finally degenerated into a bloody guerrilla battle that made the dictator's position untenable. The Treaty of Coche, signed in 1863, put an end to the conflict with the victory of the federalists led by General Falcón, who enacted a decree containing guarantees.

31. The Constitution of the United States of Venezuela was adopted in 1864. Despite loans received from abroad and the discovery of gold in Guyana, the new President and his associates were unable to put order into the political, economic and administrative chaos caused by the war, which nevertheless highlighted the egalitarian nature of the Venezuelan community by breaking down the last barriers of compartmentalized colonial society. Anarchy and factionalism drove Falcón out of power and led to the "Blue Revolution" in 1868, when the former leader, José Tadeo Monagas, took power again.

32. A movement led by Antonio Guzmán Blanco took Caracas by storm in 1870. Guzmán exercised power until 1888, either directly or through supporters such as Joaquín Crespo (1884-1886) and Hermógenes López (1887-1888). The period

from 1888 to 1898 was known as "Guzmanism without Guzmán". His influence waned when power was assumed by President Juan Pablo Rojas Paul (1888-1890), whose public-spiritedness encouraged the free play of political ideas, but instability and factionalism predominated during the next few years, with Raimundo Andueza Palacios (1890-1892), Joaquín Crespo (1892-1898) and Ignacio Andrade (1898-1899). In 1897, a rigged arbitral award deprived Venezuela of the territory of Essequibo in Guyana, which was added to the dominions of the British Empire. The presidential elections held in that year were won by Ignacio Andrade. The traditional political parties that had emerged in the nineteenth century died out at the end of the century.

33. Crespo's death and the rivalries between Andrade's followers created a power vacuum that was taken advantage of in 1899 by the Táchiran political boss, Cipriano Castro, who forced his way through to Caracas at the head of a small army. Though Castro spoke of new men, new ideals and new ways of doing things, his regime had all the characteristics of a personality cult. Juan Vicente Gómez, who was also from Táchira, led the regime's armed wing. Castro stood up forcefully in 1903 to the maritime blockade imposed on Venezuela by various European powers to force it to pay its external debt. The mediation of the United States in the conflict marked the beginning of the decline of European influence and the strengthening of that of the United States.

34. In late 1908, when Castro, who was ill, was travelling to Europe for an operation, Vice-President Gómez led a coup d'état and took power. Gómez exercised absolute power, either directly or through intermediaries, until his death in 1935. He ruled the country with an iron hand, as though it were an enormous country estate, and he had no hesitation in keeping the juiciest prizes for himself and his friends. He advocated "order, peace and work", but persecuted, banished and jailed anyone who lost his favour. All political activity and all freedom of expression were prohibited. It was a suffocating peace during which the remains of the anarchical political boss system, the corrupt political parties and the endemic civil wars of the nineteenth century died out, together with public freedoms.

35. In 1928, a rebellion of workers, intellectuals, students and some members of the military broke out in Caracas against the Gómez regime. It was an unsuccessful attempt, like others made from abroad by political exiles in 1928 and later years. This started the "generation of 28", which was of such great importance in Venezuelan public life 20 years later. In the 1920s, there was an extraordinary increase in Venezuelan oil production (which benefited the English, Dutch and North Americans), so much so that, in 1930, Venezuela occupied second place among the producer countries and became basically a mining country.

36. When Gómez died, power was assumed by his Minister of War, General Eleazar López Contreras, who gradually led the country towards a regime of greater freedoms. During López Contreras' term of office (1935-1941) and that of his successor, Isaías Medina Angarita (1941-1945), spectacular progress was made in improving public health and sanitation and political liberalization was considerable. With the establishment of freedom of the press, freedom of association and freedom of opinion, many newspapers came out, trade unions were established and modern political parties were founded. The Labour Act

was promulgated in 1936, the Central Bank of Venezuela was founded in 1939, social security was instituted in 1940 and income tax in 1942. In 1943, a new Hydrocarbons Act was adopted, giving the State fuller participation in oil production. From 1945 to 1948, a number of tax reforms increased the State's share of oil revenue by up to 50 per cent.

37. A revolt by civilians and members of the military overthrew President Medina Angarita in October 1945. The Government Junta headed by Rómulo Betancourt, the Democratic Action leader, called elections. The party's candidate, the teacher and writer, Rómulo Gallegos, was elected President in late 1947 and was deposed by the armed forces in November 1948. The leader of the military Junta which took power was Carlos Delgado Chalbaud, who was assassinated two years later. The Junta called elections in 1952 and they were won by the opposition. Marcos Pérez Jiménez, who had been a prominent figure since the October 1945 movement, ignored the results of the elections and took power, claiming that he was acting on behalf of the armed forces.

38. Marcos Pérez Jiménez was overthrown in 1958 by a military and popular movement and power was assumed by a Government Junta presided over successively by Wolfgang Larrazábal and Edgar Sanabria. The Venezuelan democratic era began at that time and is still continuing. The Government Junta called elections, which were won by Rómulo Betancourt, the Democratic Action leader. Betancourt served as constitutional President from 1959 to 1964 in difficult political, economic and social circumstances, but he managed to strengthen democracy. From 1964 to 1969, the office of President was held by his fellow party member, Raúl Leoni, who was also elected in free elections and handed over the office in 1969 to the winning candidate of the main opposition party (the Social Christian COPEI), Rafael Caldera, whose term of office ended in 1973. His Government based its policy of industrialization on a foundation of internal peace, reflected in the elimination of the guerrilla movements.

39. In the presidential elections held in 1973, Carlos Andrés Pérez, the Democratic Action candidate, was elected President for the period 1974-1979. The elections were held at the time of the new Venezuelan oil boom, which was the result of the boycott by the Arab countries. Immediately after taking power (March 1974), the new President announced that he intended to nationalize the oil companies and the iron ore mining companies and he did so in 1975. The new oil earnings enabled President Pérez to launch an ambitious economic plan for the industrialization of the country.

40. In 1978, the COPEI candidate, Luis Herrera Campins, won the presidential elections and took office in March 1979. In the context of a serious economic and social crisis characterized by the country's heavy indebtedness and high unemployment figures, the Democratic Action candidate, Jaime Lusinchi, won easily in the 1983 elections and took office as President in February 1984. During the last elections held in Venezuela (1988), the winner was the government candidate and former President, Carlos Andrés Pérez. His term of office will end in 1993.

## B. Type of Government

41. In accordance with article 3 of the Constitution, as adopted in 1961, "The Government of Venezuela is and always will be democratic, representative responsible and alternating". There are three branches of power: the executive, the legislative and the judiciary. Executive power is exercised by the President of the Republic, who is elected every five years by direct and secret ballot, the electors being all Venezuelans over the age of 18. The President is assisted in running the Government by the Cabinet Ministers, the Governor of the Federal district, the Governors of the States and the Governor of the Amacuro Delta Federal Territory. These members of the Government are also elected by direct and secret ballot. Legislative power is exercised by the National Congress through the Senate and the Chamber of Deputies and, in the States, through the Legislative Assemblies. Judicial power is exercised by the Supreme Court and the other courts. There is also the municipal power which is exercised by the municipal councils, one for each district.

## C. The Executive Power

42. The Executive is headed by the President of the Republic, assisted by the Cabinet Ministries. Executive power is also exercised by the Governors of the 21 States of which Venezuela is made up and of the Amacuro Delta Federal Territory.

### 1. The President

43. The President of the Republic is Head of State and of the Executive and is elected by universal, direct and secret ballot. Under the Constitution, the duties and powers of the President of the Republic include ensuring compliance with the Constitution and the law; appointing and removing ministers; exercising, in his capacity as Commander-in-Chief, supreme authority over the armed forces; establishing the size of the armed forces; conducting the Republic's foreign affairs and ratifying international treaties, conventions and agreements; declaring a state of emergency and decreeing any restriction or suspension of guarantees in cases provided for in the Constitution; taking the necessary measures for the Republic's defence, territorial integrity and sovereignty in the event of an international emergency; taking special economic and financial measures when required in the public interest and authorized to do so by a special law; convening special sessions of Congress; wholly or fully regulating laws, without changing their spirit, purpose or reason; ordering, in the event of a proven emergency during the congressional recess, the establishment of new public services or alteration to or the elimination of existing services, with the prior authorization of the Delegate Committee; administering the public finances; negotiating national loans; ordering allocations to supplement the budget, after authorization by the Chambers meeting in joint session, or by the Delegate Committee; entering into contracts that are in the national interest under the Constitution and the law; appointing, with the prior authorization of the Senate or the Delegate Committee of Congress, the Attorney-General of the Republic and the heads of permanent diplomatic missions; appointing and dismissing, in accordance with the law, national officials and employees not appointed by another authority; addressing to Congress, either in person or through one of the ministers, special reports or messages; and granting pardons.

## 2. The Ministers

44. The Ministers come directly under the President of the Republic. Venezuela has the following Ministries: Ministry of the Interior, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Defence, Ministry of Development, Ministry of Education, Ministry of Health and Social Welfare, Ministry of Agriculture, Ministry of Labour, Ministry of Transport and Communications, Ministry of Justice, Ministry of Energy and Mines, Ministry of the Environment and Renewable Natural Resources, Ministry of Urban Development Ministry of the Family and Cabinet Office.

45. Under the Central Administration Organizational Act, a Minister's powers and duties include guiding, heading, coordinating and supervising the Ministry's activities, without prejudice to the powers conferred on external inspection bodies by the Constitution and the law; representing the Ministry in the administration; complying with and enforcing orders communicated by the President of the Republic and reporting thereon to the latter; submitting a written report to the President of the Republic, with copy to the Minister for Foreign Affairs, on official activities conducted outside Venezuela; attending meetings of the Council of Ministers; forwarding to and substantiating in the Legislature the bills within his remit submitted by the Executive through the Ministry; countersigning orders by the President of the Republic that fall within his competence and ensuring that they are enforced, as well as enforcing Presidential decisions; preparing the Ministry's memorandum and accounts and submitting them to Congress for consideration; preparing and submitting, in accordance with the law, the Ministry's budget estimates and forwarding them to the Central Budget Office for examination; administering, inspecting and safeguarding the Ministry's services, property and sources of income; arranging the Ministry's expenditures and additional allocations and other changes in its budget; communicating instructions to the Attorney-General of the Republic when he is required to participate in matters pertaining to the competence of the Ministry; complying in due time with the legal obligations concerning the Office of the Comptroller-General of the Republic; signing documents and correspondence connected with his portfolio; ruling in final instance on administrative appeals against decisions by the Ministry's bodies and authorities; requesting a decision from the President of the Republic on matters requiring his participation; solving conflicts of competence as between officials of the Ministry, and exercising disciplinary powers in accordance with the provisions of the laws or regulations; and hiring for the Ministry the services of professionals and experts for fixed periods or for particular tasks.

46. Under the Constitution, the President of the Republic may appoint Ministers of State without assigning them a particular portfolio. In addition to taking part in the Council of Ministers and advising the President of the Republic on matters he assigns to them, Ministers of State may be responsible for matters assigned to them by law. The Ministers of State are the following: Minister of State President of the Venezuelan Guyana Corporation, Minister of State President of the Presidential Commission for Reform of the State (COPRE), Minister of State President of the National Cultural Council (CONAC), Minister of State President of the Venezuelan Investment Fund (FIV), Minister of State for the Advancement of Women, Minister of State President of the National Research, Science and Technology Council (CONICIT), Minister of State for

Parliamentary Affairs, Minister of State President of the National Commission against Illicit Use of Drugs (CONACUID), Minister of State Chief of the Central Information Office (OCI) and Minister of State President of the National Tourism Corporation (CORPOTURISMO).

### 3. The Council of Ministers

47. The Council consists of all the Ministers and is headed by the President of the Republic or the Minister appointed by him. The President establishes the periodicity of meetings of the Council of Ministers and convenes the Council in special session when he deems it advisable. The Ministers are jointly and severally responsible for the decisions adopted by the Council of Ministers, unless they have cast a dissenting vote.

### 4. Office of the Attorney-General of the Republic

48. The duties of the Office of the Attorney-General of the Republic are to represent and defend, judicially or extrajudicially, the patrimonial interests of the Republic; to issue opinions in cases for the purposes set out in the laws; to provide legal advice to the Public Administration; and any other duties assigned to it by law.

## D. The Legislative Power

49. The Congress of the Republic is the organ whereby the representatives of the Venezuelan people exercise legislative authority. It is composed of two chambers: the Senate and the Chamber of Deputies, which act independently, although in many cases they hold joint sessions to exercise the specific powers assigned to Congress by the Constitution and the laws and regulations. Congress legislates on national matters and on the functioning of the various branches of government. Congress also has the duty of supervising the Public Administration, more especially through the Office of the Comptroller-General of the Republic, which acts as a subsidiary body to Congress for this purpose and enjoys functional autonomy in performing its duties.

### 1. Senate

50. The Senate of the Republic consists of two senators for each State and two for the Federal District, in addition to an unspecified number of senators elected by electoral quotient, in application of the constitutional principle of representation of minorities, and by citizens who have been President of the Republic, unless they have been convicted for crimes under ordinary law committed in the course of their duties. The Senate, in addition to its powers as an integral part of Congress, has the following specific powers: initiating the discussion of parliamentary bills concerning international treaties and agreements; authorizing civil servants or public employees to accept honours and awards from foreign Governments; authorizing the use of Venezuelan military missions abroad or foreign missions in Venezuela, at the request of the Executive; authorizing the promotion of officers in the armed forces; authorizing the President of the Republic to leave Venezuelan territory; authorizing the appointment of the Attorney-General of the Republic and heads of permanent diplomatic missions; and authorizing, by majority vote, impeachment of the President of the Republic, after a declaration by the Supreme Court of Justice that there are grounds for such a course.

### 2. Chamber of Deputies

51. Deputies are elected on the basis of the population of each State or Territory. Under the Constitution, no fewer than two deputies shall represent each State, even though the population may not be large enough to fulfil the electoral requirement, and the Delta Amacuro Federal Territory has only one deputy. The Chamber of Deputies, in addition to its powers as an integral part of Congress, has the following specific powers: initiating discussion of the budget and any parliamentary bill concerning the taxation system; and censuring Ministers and ordering their impeachment, subject to compliance with the provisions of the Constitution.

### 3. Standing committees and subcommittees

52. Every year, at the beginning of the regular sessions, the two Chambers appoint various standing committees, intended essentially to examine and report on the legislative material to be considered in the course of the Chamber's sessions; to engage in research; to examine draft agreements, decisions, requests and other matters referred to them. The committees are the following: Domestic Policy Committee, Foreign Policy Committee, Defence Committee, Economics Committee, Finance Committee, Agriculture and Agrarian Policy Committee, Mining and Hydrocarbons Committee, Cultural Committee, Social Affairs Committee and Administration and Services Committee. In addition, the Chamber of Deputies has the Treasury Inspection Committee.

53. The Standing Committees proceed to appoint subcommittees to examine and consider specific matters on which the subcommittee members possess expertise and experience. In the Chamber of Deputies, the Domestic Policy Committee has a Human Rights Subcommittee.

### 4. Other committees

(a) Ad Hoc committees

54. Both the Senate and the Chamber of Deputies can appoint ad hoc committees when the matters to be considered are extremely important and urgent.

(b) Joint committees

55. When a matter to be considered by the Chamber is of supreme importance in view of its nature and complexity, the Chamber may have it considered by two or more standing committees.

(c) General committee

56. The General Committee meets from time to time in the course of the session and is attended by all members present. The underlying purpose of the General Committee is to afford senators and deputies an opportunity to exchange ideas, to confer, and in general, to discuss in greater freedom the matter that is under consideration at the regular session.

(d) Delegate committee

57. The Delegate Committee represents Congress in periods in which Congress does not hold meetings of any kind. It operates while the Chambers are in recess.

## E. The judicial power

58. Under the terms of articles 204 and 205 of the Constitution and articles 1 and 2 of the Judiciary Organization Act, which, pursuant to the Constitution, was promulgated on 30 June 1956 and amended on 16 September 19 and 3 August 1974, the Judiciary is independent of the other branches of Government in performing its duties, which are carried out by the following organs: the Supreme Court of Justice and any other courts specified by law. The Constitution also stipulates in articles 207 and 208 that the law shall require professional qualifications to ensure the suitability, the permanent status and the independence of judges and shall lay down rules for the jurisdiction, organization and functioning of the courts. Moreover, judges may not be dismissed or suspended, other than in the cases and in accordance with the procedure specified by law.

59. Under the terms of the above-mentioned articles, the Judicial Career Act was enacted on 11 December 1980 and the text is mentioned below (see annex III). It specifically states in article 209 that the other authorities of the Republic shall extend to judges the cooperation they need for proper fulfilment of their duties.

### 1. Structure of the Judiciary

60. The Judiciary is made up of the Supreme Court of Justice, consisting of the Political and Administrative Chamber, the Criminal Cassation Chamber and Civil Cassation Chamber; 155 higher courts, 354 courts of first instance, 208 department and district courts, and 354 municipal and parish courts, in 21 judicial districts covering the 21 States, one Federal Territo and one Federal District, comprising the whole of Federal territory. The total number of court judges consists of 551 women and 487 men. These data are for 1990, from information obtained from the Statistics Division of the Judicature Council.

61. Under article 15 of the Judicature Council Organization Act, the Council's powers include establishing the Republic's judicial policy and, in general, anything pertaining to governance of the judicial authority that is not expressly assigned by law to another body; supervising the efficiency, performance and conduct of judges; creating jurisdictions and regular and special courts; establishing and altering the jurisdiction of courts; appointing every year, in January, the co-judges of the regular and special courts, except the military courts; creating temporary or permanent magistrat posts; appointing judges for ad hoc courts in accordance with the procedures laid down in the regulations; creating temporary or permanent posts for judge or officials to implement enforcement measures set out in the Code of Civil Procedure; and appointing and dismissing public defenders and court inspecto in accordance with the law.

62. The provisions of the Judiciary Organization Act stipulate that:

(a) The courts may have one or more judges;

(b) The Judiciary shall, except where otherwise expressly provided by law, hear civil, trade, criminal, labour, juvenile and military cases, regardless of the persons involved; hand down final rulings and execute judgements or have them executed; act in all non-litigation matters as required by law; and exercise correctional and disciplinary powers;

(c) For the purposes of execution of judgements, the courts may require from other authorities the assistance of the forces of law and order at their disposal and, in general, use all lawful enforcement measures available to them, except in a case of conflict of powers, which shall be submitted to the Supreme Court of Justice for a ruling;

(d) The authority to which a request is issued in due and proper form by a court in the exercise of its powers must render assistance and may not challenge the grounds on which the request is made or the justice or lawfulness of the judgement or ruling to be enforced;

(e) In the cases and under the conditions set out in the procedural laws and codes, all parties are entitled to have associate judges included in the court.

63. The Judiciary Organization Act also sets out, in title III, the rights and duties of judges and related prohibitions, including the following:

Article 44

Judges are required to conduct themselves properly and to avoid any act which will bring them public discredit or jeopardize the propriety of their office.

Article 45

Court officials shall refrain from taking part in meetings or demonstrations of a political nature and, in elections or in events preceding them, shall confine themselves to casting their own vote. Notwithstanding the foregoing, they shall exercise their powers and perform their duties as required by law.

Article 46

Judges shall refrain from expressing, or even intimating in private, their opinion about legal matters on which they are required to rule. They shall also refrain from listening to any pleading or attempt thereat by parties, or by third parties appointed or influenced by them, outside the court.

64. The Judiciary Organization Act specifies furthermore in articles 99 and 100 that each criminal court of first instance shall have at least one Public Defender, who shall fulfil the requirements for judicial office and, in

addition, be a lawyer or prosecutor. Public Defenders may not practise law or hold any other salaried public post. Academic and teaching posts shall be an exception to this latter prohibition. Venezuela has at present 145 Public Defenders Offices.

65. Under the terms of article 102 of the Act, the powers and duties of Public Defenders are to represent the accused in cases provided for in the Code of Criminal Procedure; defend accused persons who are declared indigent by the courts; inspect the treatment of detainees, informing the court of matters they deem appropriate, as well as the head judicial officer when the prison is visited; attend weekly visiting hours at the prison and make any requests they deem appropriate; prepare requests made by accused persons and authorize them with their signature whenever they deem such requests necessary for the purposes of the defence; produce evidence in all proceedings in which they take part, except where the court declares such a course unnecessary, in accordance with the Code of Criminal Procedure; and appoint auxiliary defenders to evaluate evidence or other measures to be carried out at the place of the proceedings or elsewhere. Under the terms of article 103 of the Act, Public Defenders are responsible, in accordance with the terms of the Criminal Code, for negligence, delay, omission or fault in the performance of their duties.

### 2. The judicial career

66. The aim of the Judicial Career Act is to ensure the suitability, the permanent status and the independence of the members of the judiciary and to regulate the manner of their admission to, and the duration and termination of their office, as well as to determine the disciplinary responsibility of judges in the exercise of their functions (art. 1). Article 2 states:

> "The administration of justice is a public function. The guaranteed tenure assured for judges by the present Act may in no case take precedence over the public interest in the proper administration of justice."

Article 3 of the Judicial Career Act reaffirms the principle contained in article 208 of the Constitution by providing that judges shall enjoy security of tenure in the performance of their functions and that they may be removed from or suspended in the exercise of their functions only in those cases and by such procedures as are specified by law. This article also provides that judges shall be required to achieve a satisfactory performance in the exercise of their functions, so as to contribute to the prompt and efficient administration of justice.

67. Article 14 of the Act states:

> "The requirements for admission to the judicial career are: to be of Venezuelan nationality, to be an advocate of the Republic, to be at least 25 years of age, to enjoy full civil and political rights, to have freely practised the profession of advocate or to have carried out the professional activity of an advocate, or to have completed a postgraduate course in law, or to have been a teacher of law for two years, or to have held for the same period the post of court registrar, to have been always of irreproachable conduct and to have passed a competitive examination."

Under the powers conferred by article 25 of the Judicial Career Act, the Judicature Council established on 13 December 1984 rules for this competitive examination. These rules were published in special issue No. 3499 of the Gaceta oficial on 14 January 1985. They were repealed on 29 November 1989 when new competitive examination rules were established. These were published in Gaceta oficial No. 34,362 of 6 December 1989. On 13 February 1991 the Council issued a decision No. 1 supplementing the rules on competitive examinations. This decision was published in Gaceta oficial No. 34,668 of 5 March 1991.

68. The above-mentioned rules state, in article 11, that public notice shall be given of the holding of competitive examinations to fill posts in categories "A", "B", "C" and "D" and that the examinations shall constitute a test of credentials and qualifications, one part being public and the other an oral examination concerned with theory. As provided in article 26 of the Judicial Career Act, these tests shall take place before a jury composed as follows: for posts in category "A" (ordinary or higher court judges), the jury shall be composed of two judges of the appropriate division of the Supreme Court and one member of the Judicature Council. For posts in categories "B", "C" and "D", (judges of first instance and district or departmental judges, and local magistrates), the jury shall be composed of two members of the Judicature Council and one higher court judge of appropriate competence appointed by the Judicature Council. Pursuant to article 22 of the Judicial Career Act, the Judicature Council appoints as titular court judge the candidate who has obtained the highest mark in the competitive examination on a points scale from 15 to 20. The candidates who obtain second and third place, respectively, on this points scale are appointed, with the same ranking as first and second alternates to the titular judge. The competitive examination is declared void if no candidate obtains a mark of 15 or higher.

### 3. The disciplinary system

#### (a) Suspension

69. Under article 43 of the Judicial Career Act, judges shall be suspended from their post for the following reasons: if they seek to obtain loans in money or goods, or other favours or services, which, because of their frequenc or on other grounds, cast doubt on their decorum or impartiality; if they assume obligations that give rise to claims in respect of which they are declared liable; if they do not perform a satisfactory annual amount of duty, evaluated as indicated in article 36 of the Act; if they show a censurable conduct prejudicial to the dignity of their office or which lowers it in the public esteem; if they commit a further breach of discipline after having been given two warnings within a year; if they do not observe exactly the judicial time-limits and periods which they are required by law to observe or they reserve sentencing for no valid reason; or if they refrain from pronouncing judgement under the pretext of silence, contradiction or deficiency of the law, or obscurity of the terms of the law, or if they unlawfully delay orderin any measure, making any decision or imposing any sentence even if no complaint for delay has been lodged in order to establish civil liability and no crimina proceedings for denial of justice have been instituted. The duration of the suspension shall be three months to one year at the discretion of the Judicature Council, according to the gravity of the infringement.

(b) Dismissal

70. The grounds for dismissal are specified in article 44 of the Judicial Career Act, without prejudice to any applicable criminal penalties. They include the following: if, having already been sanctioned by suspension from office, the judge commits an infringement of the same category as the one which gave rise to the suspension; if he does anything to diminish respect for the Judicial Power or commits any serious act which, although not constituting an offence, compromises the dignity of his office or diminishes it in the eyes of the public; if he receives a gift from any of the litigants in a case; if there are further failures on his part to observe the legal periods or time-limits or if he again suspends judgements, as referred to in article 43, section 7, of the Act; if he performs acts constituting practice of the profession of advocate; if he makes recommendations to other judges concerning cases that are before them; if he is a member of the leadership of a party or engages in political activities of a public nature; if he functions as a judge when he is prevented from doing so by law; if the provisions of the Schedule of Judicial Charges Act are not complied with; or if he commits an abuse of authority by assuming functions not conferred upon him by law.

4. The Judicature Council

71. This is a body provided for in the Constitution whose organization and powers are designed to ensure the independence, discipline and decorum of the courts and to guarantee for judges the benefits of a judicial career. The Judicature Council was provided for in article 217 of the Constitution and was established under the Act of 16 September 1969, partially amending the Judiciary Organization Act. The Judicature Council has been given responsibility for ensuring the proper implementation of the Judicial Career Act and thus guaranteeing for judges genuine independence, autonomy and security.

72. The Judicature Council is composed of five magistrates representing the different public powers. These are appointed as follows: three principal judges are appointed by the Supreme Court in Plenary, by a qualified majority of two thirds of the Supreme Court judges voting; one principal judge is appointed by the Congress of the Republic by a qualified majority of two thirds of the members of the parliament voting; and one judge appointed by the Executive (the President of the Republic in Council of Ministers). The principal judges shall have two alternates appointed in the same manner and at the same time as themselves. The judges members of the Judicature Council shall be sworn in before the Supreme Court and shall assume office within 10 days of being sworn in. Both the principal and alternate judges shall fulfil the same requirements as are laid down for judges of the Supreme Court and they shall perform their functions during the constitutional period for which they are appointed. They may be re-elected for a further period.

73. The judges who together make up the regular organs of the Council are responsible for dealing with all the Council's affairs; determining Venezuela's judicial policy; seeing to the efficient administration of justice; drawing attention to any requirement to establish, modify or eliminate any judicial

services, seeing to the material needs of the courts and of the Offices of Public Defenders, fostering the social welfare of members of the judiciary and other officials responsible for the administration of justice; and all other matters affecting the judiciary.

74. The jurisdictional organ of the Council is the Disciplinary Tribunal, which is composed of the judges of the Council and acts as a collegial body. It is presided over by the judge serving as President of the Council. The President of the Council or a person appointed from outside the Council shall carry out the function of handling proceedings against members of the judiciar who come under the Tribunal's disciplinary authority. The Disciplinary Tribunal shall have competence with regard to disciplinary proceedings instituted, in the cases provided for by law, against Judges of the Republic and Public Defenders. The disciplinary proceedings shall be public in character and treated as matters of urgency. In dealing with them, the Judicature Council shall not, in determining the facts of the case, be able to act only on the initiative of the injured party, but shall order the taking of any measures or the obtaining of any evidence needed to clarify the facts or errors that are alleged to have been committed or that are the subject of the proceedings. Disciplinary proceedings shall be initiated upon complaint by the parties concerned or by a representative of the Public Prosecutor's Department, or upon application by any of the divisions of the Supreme Court or the Executive Power, or de officio.

(a) Inspection and supervision of the administration of justice

75. Pursuant to the Judicature Council Organization Act, the inspection and supervision of the courts and tribunals and other organs of the Judiciary, with the single exception of the military jurisdictions, shall be carried out by the judges of the Judicature Council or, if the latter so orders, by the Inspection and Supervision Commission, which shall be composed of the following: a judge member of the Council, appointed by the Council in plenary session, who shall act as coordinator; an inspector-general and the corps of inspectors. The Commission shall function at the headquarters of the Judicature Council and it shall have jurisdiction throughout the national territory. The inspection and supervision of the administration of justice is a continuous and permanent function and is organized in such a way as to permit evaluation of the performance of judges in relation to the criteria laid down in the Judicial Career Act. There are two forms of inspection of the courts: ordinary and special. Ordinary inspection is carried out by the courts on a permanent and rotating basis in the various judicial districts, in accordance with the relevant instructions issued by the Judicature Council. Courts shall be inspected at least once each year and the inspection shall constitute the basis for preparation of a report that assesses the functioning of the administration of justice in the district concerned.

76. For the purposes of carrying out inspection and supervision, the Act provides that within the first five days of each month judges must submit to the Judicature Council a report on the cases heard and dealt with in the preceding month, as well as on the pending cases. They must also indicate the final and interlocutory judgements pronounced during the same period. A special inspection shall take place in exceptional or urgent cases for the purpose of conducting inquiries in relation to complaints received from the

parties concerned or from a representative of the Public Prosecutor's Department, or upon application by any of the divisions of the Supreme Court or the National Executive, or de officio. An Inspector-General of Courts shall be appointed by the Judicature Council in plenary session and the court inspectors shall be appointed on the basis of a competitive examination. The powers of the court inspectors are specified in article 38 of the Judicature Council Organization Act.

(b) Administrative organization

77. From the administrative organization standpoint, the Judicature Council comprises executive organs, technical control organs, operational organs, advisory organs and academic organs. These are:

(a) Executive organs: the President, the Secretariat and the Judges, who act through their various committees.

(b) Control organs: the Office of Internal Control.

(c) Operational organs: the Directorate of Administration.

(d) Advisory organs: the Office of the Legal Council, the Directorate of Personnel and the Directorate of Information, Publications and Public Relations.

(e) Academic organ: the Judicature College, whose purpose is the training and preparation, as well as the further training, of candidate judges. The "circular" courses and academic structure of the Judicature College place it in the university category, at the postgraduate level. Its aim, on this basis, is to strengthen the administration of justice and ensure the independence of the judiciary.

78. The overall administrative organization embraces a number of functions the purpose of which is to ensure that the judicial machine works smoothly. It possesses the necessary instruments for this purpose which are divided among the organs of the administrative structure. These range from the powers reserved to the President to the tasks connected with the classification and study of court judgements; the work of the public defenders; matters relating to accounts; the material facilities of the courts; the preparation of the budget and all financial matters.

## F. THE OFFICE OF THE ATTORNEY-GENERAL OF THE REPUBLIC OR PUBLIC PROSECUTOR'S DEPARTMENT

79. The Public Prosecutor's Department is an organ of the State provided for in the Constitution. It is autonomous in character and independent of the three powers constituting the public administration in Venezuela. The Constitution has assigned it the important role of guardian of legality. It must therefore ensure that citizens show the necessary respect for the integrity of the legal system, so that the people may live together in an atmosphere of optimum legality. It is largely responsible for ensuring the effectiveness of the citizens' constitutional guarantees and for determining any liability that may be incurred by authorities committing censurable acts.

These are only two of the specific functions of this institution, but they form the cornerstone that supports its complex structure. For the proper performance and possibility of continuation of its functions, the Public Prosecutor's Department must operate in a political atmosphere of strict legality, for which political democracy is essential, so that the representatives of the Public Prosecutor's Office may perform the tasks assigned by the Constitution (1962) and by the Public Prosecutor's Department Organization Act (1970), the text of which can be found in annex IV.

80. The Public Prosecutor's Department formerly regarded itself as the organ for liaison between the Executive and the courts. This liaison role prevented it from functioning efficiently, since in certain cases the Attorney-General of the Republic might apply for the imposition of penalties on members of the Executive while being, at the same time, under the latter's orders. Furthermore, the Public Prosecutor's Department regarded itself simply as the watchdog of legality, seen as limited to the field of action of the courts, when in fact its supervision extended to the overall legality of the State.

81. As regards the powers and duties of the Public Prosecutor's Department, certain features of the Department are noteworthy: its character, its representativity, its independence and autonomy, its genuine public service attitude and its status as defender and guarantor of human rights and of the citizen. As an organ of the State, and not of the Government or the Executive, the Public Prosecutor's Department has become a fundamental element of the Venezuelan State, whose concerns include all public and even private activities of the community and its members.

### 1. Organizational structure

82. Article 218 of the present Constitution states that the Public Prosecutor's Department shall be in charge of and under the direction and responsibility of the Attorney-General of the Republic and shall be assisted by officials as specified in the Organization Act. The Attorney-General of the Republic must have the same qualifications as are required of a judge of the Supreme Court and he is elected by the Chambers in joint session within the first 30 days of each constitutional term. The Congress appoints the Attorney-General of the Republic as the director of an autonomous organ of the State, independent of the various branches of the public administration, with which he must cooperate in order to achieve the State's aims. The Attorney-General must submit an annual report on his activities, which report is subject to congressional criticism, although the congress exercises no functional or disciplinary control over him. The Attorney-General of the Republic may in fact request the Supreme Court to declare null and void any legislation or administrative measures which are unconstitutional and he must also take appropriate criminal proceedings against members of the legislative chambers who commit punishable acts, once they have been lawfully deprived of their immunity.

### 2. Unity and indivisibility

83. The principle of the unity of the Public Prosecutor's Department and of its hierarchical organization was established in the preliminary provision of the Public Prosecutor's Department Organization Act, which provides that the

Attorney-General of the Republic shall exercise authority over the officials of the Public Prosecutor's Department independently of the jurisdiction in which they function. This is the only correct interpretation of the precept contained in article 218 of the Constitution, which recognizes only one Public Prosecutor's Department under the responsibility and leadership of the Attorney-General of the Republic.

### 3. Attorneys of the Public Prosecutor's Department and Attorneys for Juveniles

84. The role assigned to the representative of the Public Prosecutor's Department is that of protecting juridical and social order. In the performance of his duties he must act with objectivity and impartiality so as always to safeguard human rights. The functions of the representatives of the Public Prosecutor's Department are many and diverse. Among them we may mention the following:

(a) Functions which are exercised when the law has been breached by the perpetration of a punishable act, that is to say those relating to the conduct of criminal proceedings on the occasions and in the manner indicated in the Criminal Code and the Code of Criminal Procedure, and those which concern the active intervention of government attorneys in pre-trial proceedings, their powers to watch over and supervise the work of the Criminal Investigation Service in the preliminary stage, their intervention in the trial itself and the lodging of appeals against judicial decisions;

(b) The functions related to their action exercised as representatives of the law, when they take note of abuses and irregularities which they may observe in the functioning of the tribunals and courts and communicate them to the Attorney-General of the Republic, recommending the corrective measures which they consider necessary; when they investigate arrests and when they intervene in applications for protection (amparo); when they intervene in proceedings against persons at risk; when they visit prisons or detention centres and make such observations as they deem appropriate; when they supervise the serving of sentences, for which purpose they are obliged, whenever necessary and whenever they are directly instructed by the Attorney-General of the Republic, to visit police stations, lock-ups, public prisons, national penitentiaries, juvenile detention centres and other places of custody in order to ascertain whether the sentences are being correctly served and whether the human rights guaranteed by the Constitution are being respected and in order to report to the competent authorities any deficiencies they may note, indicating measures to correct them;

(c) The functions which they exercise when they look after the rights of accused persons, making sure that any person held in pre-trial detention by the police authorities is informed of his constitutional rights and is able to communicate with his defence counsel and that the duration of the pre-trial proceedings is not exceeded in violation of the provisions of article 60, paragraph 1, of the Venezuelan Constitution;

(d) The functions which they exercise when acting on behalf of minors who do not have a legal representative or when the latter is unable to act, when a minor is involved in offences against morality, in civil proceedings; and when they act on behalf of a minor;

(e) The functions which they exercise when they intervene in civil proceedings such as those concerned with the civil status of persons: divorce, separation, marriage annulment, adoption and execution of orders or judgements of foreign authorities in matters relating to the civil status of persons, emancipation, adoption and other non-litigious matters.

85. The functions included in the five above-mentioned groups are exercised by government attorneys and by Attorneys for Juveniles in the judicial districts into which the Republic is divided; the list is not exhaustive. As auxiliaries of the Attorney-General of the Republic, they carry out the impartial action of the Public Prosecutor's Department down to its smallest details and always in such a manner as to preserve the unity which should characterize the institution and which is typical of its hierarchical and technical organization, particularly in those judicial districts where there is more than one government attorney, in accordance with the principle of the indivisibility of the Public Prosecutor's Department.

86. With regard to the question concerning the appointment and removal of government attorneys that was raised by the Committee in its observations on the initial report, article 18 of the Public Prosecutor's Department Organization Act states that officials of the ordinary courts shall be appointed by the Attorney-General for a five-year term. During this term they may be removed only in the event of incapacity, negligence, misconduct or other serious failing in the performance of their duties duly proved in official proceedings. As far as their qualifications are concerned, the laws states that they must be advocates, over 21 years of age and in full enjoyment of their rights; preference will be given to advocates who have passed specialized courses in matters pertaining to the Public Prosecutor's Department or who have served the latter or the courts honestly and efficiently.

G. The Presidential Commission for the Reform of the State (COPRE)

87. The Presidential Commission for the Reform of the State (COPRE) was established by Decree No. 403 of 17 December 1984. The areas covered by the reform process are indicated below:

(a) Political reforms: the purpose here is to intensify and increase citizens' participation while at the same time improving representativeness by promoting a closer relationship between electors and elected. It entails modernizing the electoral system; reforming the machinery of parties for the selection of their leaders and candidates; establishing transparency in the mechanisms for financing political parties; democratizing trade unions; and strengthening democratic values.

(b) Decentralization: this is becoming an important basic feature in the political, administrative, economic and financial fields. The intention is to promote democratization and, at the same time, to relieve the pressure on the central organs of the State with a view to making them more efficient. Decentralization entails a new type of territorial integration and a new kind of relationship between the State and the citizen.

(c) Administrative modernization: the public administration is a clear, condensed manifestation of the way in which power is exercised in a society, both in its structure and in its functioning and personnel policies. There is a growing need to stress the fundamental elements of the administrative process, the most important of which are staffing arrangements in general, and in particular the managerial level as a start. Thus emphasis must be placed on the drive to professionalize public administration as a decisive step towards eradicating favouritism.

(d) Strengthening of the State's basis in law: reform of the judiciary; modernization of the law; transformation of the prison system; creation of instruments for protecting the citizen against unjust acts by the authorities.

(e) The modernization of public policies: it is becoming essential to ensure that the formulation of public policies is in line with the general interests of society. As a particular example, mention may be made of the relationship between economic and social policies, which often have different general aims, the latter being subordinated to the former; the objectives of the democratic and social State subject to the rule of law are thus compromised.

(f) The development of civil society: this is not only a requirement of democracy but also an essential prerequisite for increasing the State's efficiency. It is a question of opening up channels for the constitution of a social force capable of making the reforms undertaken an irreversible and continuous process.

## III. GENERAL NORMATIVE FRAMEWORK FOR THE PROTECTION OF HUMAN RIGHTS

### A. Authorities having jurisdiction in matters pertaining to human rights

#### 1. The Supreme Court of Justice

88. The Supreme Court is competent to deal with cases of protection of rights (amparo) and to declare laws and other administrative acts unconstitutional. Article 215, paragraphs 3, 4 and 6, of the Venezuelan Constitution establish the functions of the Supreme Court as follows: to declare fully or partly null and void national laws and other acts of legislative bodies that are in conflict with the Constitution; to declare fully or partly null and void State laws, municipal by-laws and other acts of the deliberative bodies of States or municipalities that are in conflict with the Constitution; and to declare null and void regulations and other acts of the National Executive when they are in violation of the Constitution.

#### 2. The Courts of the Republic

89. Since the adoption of the Organic Law on Protection (Amparo) and Constitutional Guarantees, the courts competent to hear amparo proceedings for the protection of rights are the courts of first instance, provided they are competent to deal with cases related to the kind of right or constitutiona guarantee that has been violated or might be violated, within the judicial district in which the event, act or omission involved took place.

### 3. The Public Prosecutor's Department

90. The nature and functions of this body were extensively referred to in the previous chapter. Here it is appropriate to point out that the Public Prosecutor's Department Organization Act, promulgated on 16 September 1970, in article 6, paragraphs 1, 2, 3, 10 and 13, assigns to the Department the following functions: to ensure that the Constitution and the laws are observed throughout the territory of Venezuela; to ensure respect for constitutional rights and guarantees; to ensure correct observance of the laws and of the guarantees of human rights in prisons and other places of detention; to investigate arbitrary arrests and to take action to put an end to them; to promote the enjoyment of public freedoms and to supervise the activities of the police forces; to ensure that the human and constitutional rights of prisoners and minors are respected in police stations, lock-ups, military detention centres, labour camps, prisons and penitentiaries, juvenile correction centres and other places of detention and internment, and to supervise the living conditions of prisoners and detainees and take the appropriate legal measures to ensure the realization of human rights when it is found that they have been or are being impaired or violated. For the performance of these functions, the Public Prosecutor's Department must seek the cooperation of all authorities, both to shed light on the acts alleged and to require that an end be put to violations of the law.

### 4. The National Congress

91. The Congress operates through its various committees and subcommittees, particularly the Subcommittee on Human Rights and Constitutional Guarantees of the Internal Policy Committee of the Chamber of Deputies. This Subcommittee has recently been active in receiving complaints and guiding the community in cases where human rights have been violated. It works in coordination with Directorate-General for Human Rights at the Office of the Attorney-General of the Republic, with the police and with non-governmental organizations.

## B. Remedies available to persons who claim that their rights have been violated, and methods of compensation

92. In Venezuela all branches of the Government, through different organs, provide protection for civil and political rights. In addition to the judicial remedies exercised through the courts under the Organic Law on Protection (Amparo), remedies are also available through the administrative organs under the Organic Law on Administrative Procedures. Also, the Public Prosecutor's Department considers and brings before the competent organs, all applications submitted to it by citizens where there is evidence that the human rights recognized by the Covenant have been violated.

93. In Venezuela there is no system of compensation for victims. However, the Bicameral Commission of Congress on reform of the Constitution has proposed the enactment of legislation providing that where harm is caused through judicial error or unjustified delay or omission, the person affected will be able to apply to the State for legal remedy and the payment of damages. Furthermore, Venezuela's Criminal Code contains a chapter on civil liability derived from criminal liability, which includes restitution, redress of the damage caused and compensation for loss incurred.

C. Protection of the rights referred to in the various human rights instruments

94. As will be indicated throughout the report, the rights referred to in the Covenant are protected by the Constitution and other laws of the Republic. The Constitution establishes two procedures in the case of derogation from the rights which it contains: the amendment procedure and the reform procedure. In the case of the first of these, the initiative lies with one quarter of the members of one of the Chambers or with one quarter of the members of the legislative assemblies of the States, by decisions taken in not less than two debates by an absolute majority of the members of each assembly (art. 245, para. 1, of the Constitution). The draft amendment must be considered and approved in accordance with the procedure for the enactment of legislation laid down in the Constitution.

95. The initiative for reform must come from one third of the members of the Congress, or from an absolute majority of the legislative assemblies, the procedure followed until its approval being that laid down by the Constitution. Once the reform is approved, it must be submitted to a referendum so that the people may decide in favour of it or against it. It is important to note that the President of the Republic may not veto amendments or reforms and is obliged to promulgate them within 10 days of their approval (arts. 246-249 of the Constitution).

D. The procedure for incorporation of human rights instruments into national law

96. Although this question is fully explained in the supplementary report submitted by Venezuela (CCPR/6/Add.8), the basic features of this procedure are indicated below. The incorporation of an international treaty or agreement into domestic law does not occur automatically. International treaties require an express act of incorporation in order to enter into force in domestic law. This procedure is laid down in article 128 of the Constitution, which states that, in order to be valid, international treaties must be approved by a special law. The same article refers, however, to a few exceptional situations in which treaties are not subject to approval by the Congress: if the purpose of the treaty is the execution or the improved execution of pre-existing obligations of the Republic, the application of principles expressly recognized by the Constitution, or the exercise of powers which the law expressly assigns to the Executive.

97. Whether they are submitted to the Congress for approval or not, the Executive must report to the Congress all international legal agreements which it concludes, giving a precise indication of their nature and content. After the process of incorporation by special legislation has been completed, the Venezuelan system recognizes that treaties take precedence over other laws, except the Constitution. In fact, under article 8 of the Venezuelan Code of Civil Procedure, international treaties take precedence in Venezuela over other laws.

98. It should be noted that the law approving an international treaty is sui generis, with the following characteristics: (a) the constitutional mechanisms for the drawing up, promulgation and repeal of treaties differs

from those established for ordinary domestic laws; (b) in the law approving the treaty, the legislative power must restrict itself to either approving or disapproving the treaty and may not alter any of its clauses, except for the formulation of a reservation permitted by the treaty itself or a statement of interpretation; (c) once approved by the Congress, the treaty cannot be amended by the latter, since the laws approving treaties are not repealed by other laws but through the mechanisms established by international law; (d) the promulgation of the laws approving treaties remains the prerogative of the Executive, and the binding force of the treaty at the international level is dependent on its ratification.

E. Can the provisions of human rights instruments be invoked in the courts or before administrative authorities or directly applied by them, or must they be converted into domestic law or administrative regulations before they can be applied by the competent authorities?

99. As was indicated in the previous paragraph, in order for international instruments to form part of domestic legislation, they must be approved through the process described. On the basis of this general principle, human rights instruments have to be incorporated in domestic law before they can be invoked before the courts and administrative authorities. Nevertheless, as will be analysed in detail in our observations on article 2 of the International Covenant on Civil and Political Rights, a new trend has recently developed in the jurisprudence of the Supreme Court, which, basing itself on article 50 of the Constitution, has recognized international human rights treaties ratified by Venezuela as having automatic legal force if the constitutional requirements for their approval (their self-executing nature) are fulfilled and in law they are ranked as comparable to the provisions of the Constitution.

100. Article 50 of the Venezuelan Constitution provides as follows:

> "The enunciation of the rights and guarantees contained in this Constitution must not be understood as a denial of others which, being inherent in the human person, are not expressly referred to in the Constitution. The lack of a law regulating these rights does not impair the exercise thereof."

This is a very important interpretation in our jurisprudence and its development will have to be observed in future. The Bicameral Commission which is currently revising the Constitution has proposed the incorporation of the following wording in article 50: "All inhabitants of the Republic shall enjoy the rights and guarantees established by international human rights treaties and agreements ratified by Venezuela, which shall take precedence over any other law of the internal legal system."

F. National institution or body for monitoring the implementation of human rights

101. As was noted in previous chapters, the constitutional body par excellence for the protection of human rights is the Public Prosecutor's Department. We now have to await approval of the proposal that a Defender of the People (ombudsman) be appointed.

## IV. INFORMATION AND PUBLICITY

102. Apart from the Public Prosecutor's Department, which is the principal organ responsible for the protection of human rights, Venezuela does not yet have any governmental human rights commission for the centralizing and execution of policies and measures in this field. This situation makes it somewhat difficult to ensure the necessary coordination between the national agencies responsible for monitoring and implementing human rights norms and for the fulfilment of the international commitments entered into by the Republic in this field.

103. The Ministry of Foreign Affairs is making serious efforts to keep the competent national authorities informed concerning the activities of the international organizations in the sphere of human rights and it is coordinating Venezuelan action in this field with the action being taken at the international level.

104. Contact is also maintained with the educational establishments, which are supplied with information concerning the international instruments and the activities of the international organizations in the field of human rights. The study of human rights has been included in primary and secondary education programmes and, while the curricula do not include a specific subject entitled "human rights", the topic forms part of other matters taught. At the university level the question of human rights is generally an optional subject, but there is an increasing trend towards providing instruction in this field to all students, especially in the law faculties.

105. In addition, representatives of the Government take part regularly in seminars, courses and other similar events organized by Governments, international organizations and non-governmental organizations, at which instruction is given in various aspects of human rights. In recent years the Public Prosecutor's Department has regularly organized courses, talks and lectures for officials working in areas connected with public security and the security of penal institutions, such as personnel of the Criminal Investigation Service, the State police forces, the National Guard and other security forces of the State.

106. Finally, it is worth noting the holding in Caracas in June 1991 of a training course for civil servants on the functioning of the United Nations machinery in the field of human rights, including international humanitarian law. This course was organized by the United Nations Centre for Human Rights in cooperation with the Government of Venezuela.

## V. CONCLUDING REMARKS

107. Certain developments that have taken place since the consideration of the initial and supplementary reports of Venezuela on the implementation of the International Covenant on Civil and Political Rights and which reflect progress made in the legislative field seem worth mentioning in this core document. They are the adoption, in July 1982, of the Civil Code Partial Amendment Act; in January 1988, of the Organic Law on Protection of Constitutional Rights and Guarantees; and, on 1 May 1991, of amendments to

the Labour Act. We shall also refer briefly in this section to the work being done by the Special Bicameral Commission of the Congress of the Republic on Reform of the Constitution.

### A. Civil Code (Partial Reform) Act

108. As it was recognized that the existing Code contained provisions that ran counter to the Constitutions basic principle of juridical and social equality without discrimination on grounds of race, sex, creed or social status, the object sought by the amendments, in so far as the Covenant is concerned, was to ensure the equality of spouses with respect to their rights and duties within marriage and with respect to the financial relations determined by the property regime adopted, such equality being seen as a means of strengthening the family as the basic unit of society.

#### 1. Marriage

109. In accordance with the doctrine recognized in the most recent reforms and following the principles of the United Nations, the amended Code provides that no person may enter into marriage if under the age of sixteen. The Code also introduces as an explicit norm the possibility for a married woman to choose between using the name of her husband or preserving her own name.

#### 2. Domicile and residence

110. The spouses may by agreement choose their place of residence and may take by mutual agreement all decisions concerning their life together.

#### 3. Divorce

111. Some novel changes have been introduced with regard to this question, such as the elimination of adultery as an independent ground for divorce, since it is covered by the broader ground of serious insult. The revised Code also includes among the grounds for divorce deprivation of civil rights on grounds of insanity and it also establishes a corresponding requirement that assistance and protection be given to the spouse subject to such deprivation. The period of time which must elapse before separation can be transformed into divorce is reduced to one year. The Code also provides that action for divorce cannot be taken against a women while she is pregnant nor within the three months following delivery.

#### 4. Filiation

112. As was pointed out earlier, the equality of children is one of the guiding principles of the reform, the objective being to ensure that the marital or extra-marital status of the parents does not have any discriminatory repercussion on the children. Any distinction between legitimate children and adulterine or incestuous children is therefore eliminated and new rules have been established for the determination of filiation in so far as the investigation of maternity and paternity are concerned, and the Public Prosecutor's Department is given greater powers of intervention in proceedings concerning minors, where matters of social interest are involved.

5. Parental authority

113. The changes introduced are centred on the need to recognize that parental authority is exercised jointly by the father and the mother, such authority not being seen as a right from which the parents derive a benefit in respect of inheritance. The question of the administration and representation of the property and interests of the children in the case where the issue are minors or are subject to disqualification is likewise dealt with.

B. Organic Law on Protection of Constitutional Rights and Guarantees

114. Until 1987 there was no law regulating the right to protection (amparo) and the exercise of this right was made possible only by the application of article 49 of the Constitution by the courts of minor jurisdiction, the Administrative Court of First Instance and the divisions of the Supreme Court. The new Act is important, not only because of its development of the constitutional norm, but also because it broadens its scope so as not to reduce the "right to protection" provided for in the Constitution to a mere "protection procedure". The Organic Law on Protection, which regulates and establishes the protection procedure, has expressly recognized that the exercise of the right to protection is not limited or restricted solely to this procedural mechanism, but that the right can also be exercised through other actions or remedies provided for in the legal system. This finally settles the doctrinal debate on whether the protection provided for in the Constitution is in itself a fundamental right or whether it is merely an adjective guarantee of fundamental rights. 1/ This legislation is referred to in greater detail in connection with article 2 of the International Covenant on Civil and Political Rights in the second periodic report submitted by Venezuela (CCPR/C/37/Add.14, paras. 15-22). For the text of the Law see annex VII.

C. Labour (Reform) Act

115. The amendments to the Act recognize, extend and affirm the human rights of workers. With reference to the rights provided for in the International Covenant on Civil and Political Rights, note should be taken of the changes made with regard to protection of mothers and of the family in regard to labour matters. The work of females is thus separated from the special regime applicable to minors, as it is one of the highly contentious issues in the discussion of which various women's organization have been participating actively. In connection with the protection of mothers, the earlier requirement of an examination to diagnose pregnancy is now prohibited; pregnant women workers are no longer allowed to perform hazardous work and pregnant women may not have less favourable conditions of employment except where the exigencies of the work so require; pregnant women may not be transferred during their pregnancy and for one year after delivery or after

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1/ Brewer-Carías, Allan R. and Ayala Corao, Carlos M., Ley Orgánica de Amparo sobre Derechos y Garantías Constitucionales, Editorial Jurídica Venezolana, Colección Textos Legislativos No. 5, Caracas, 1988. p. 12.

adoption of a child; post-natal leave is increased from 6 to 12 weeks; a maximum of 10 weeks of leave is allowed for a woman worker who adopts a child under the age of three years; the right of women workers to avail themselves of their maternity leave is recognized; the obligation imposed on the employer to maintain day nurseries is extended where he employs more than 20 workers, or he may replace such day nurseries by the monthly payment of a sum of money, in which case the daily period for nursing must be increased from one to two hours. As regards minors, there are a number of provisions which regulate the work of such persons and the age limit up to which work by minors may be authorized in exceptional circumstances has been set at 12 to 14 years. The text of the new Act is attached (annex VIII).

### D. Special Bicameral Commission of the Congress of the Republic on Revision of the Constitution

116. A process of constitutional reform is currently under way whose aim is both to modify the content of existing articles and to include references in the text to new offices or institutions. Consideration is being given to a proposal to establish: (a) the office of Prime Minister; (b) a High Commission for Justice, to be presided over by the Attorney-General of the Republic and to be composed of 24 members of irreproachable conduct and recognized reputation selected with the participation of law schools and of members of the legal and other professions and of other sectors of society. This body will have, inter alia, the power to dismiss judges, to order the Judicature Council to carry out total or partial reorganization of the Judiciary, to draw up the list of candidates for the election of judges of the Supreme Court, the Attorney-General of the Republic, the Defender of the People and other high judicial officials; and (c) the Defender of the People or Defender of Human Rights. Under this proposal, this official would have to possess the same qualifications as are required of judges of the Supreme Court and he would be elected by a two-thirds vote of the members of the Chambers in joint session, within 30 days of the start of each constitutional period. The Defender of the People would have competence to investigate acts, whether of commission or omission, which violate or infringe the constitutional rights of persons or groups of persons, or the interests of communities. See in annexes IX, X and XI the proposals that have been approved in principle by the Bicameral Commission, a set of proposals for amendment of the Constitution and a version of the draft text setting out the powers and competence of the Defender of Human Rights.

List of annexes*

Table 1. Principal labour force indicators, by sex (1989-1991)

Table 2. Members of the labour force aged 15 and over, by educational level (1989-1991)

Table 3. Households, by type, according to the situation of the head of household in the labour force (second half year, 1988-1989)

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I. Constitution of the Republic of Venezuela

II. Principal indicators

III. Judicial Career Act

IV. Public Prosecutor's Department Organization Act

V. Decree No. 403 establishing the Presidential Commission for Reform of the State

VI. Civil Code (Partial Reform) Act

VII. Organic Law on Protection of Constitutional Rights and Guarantees

VIII. Organic Labour Act

IX. Proposals approved in principle by the Special Bicameral Commission of the Congress of the Republic on reform of the Constitution

X. Set of proposals for amendment of the Constitution

XI. The Defender of Human Rights

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* The annexes, as submitted by the Government of Venezuela in Spanish, may be consulted in the files of the United Nations Centre for Human Rights.

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